IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/03/2004

CORAM

THE HONOURABLE Mr. JUSTICE P.D.DINAKARAN

Writ Petition No.15556 of 2001

N.Hariharan,
S/o.Shri H.Neelakanthan,
EC No.14887,
Manager (ISTN & P),
Indian Oil Corporation,
139, Nungambakkam High Road,
Chennai-600034. .. Petitioner

-Vs-

1. The Chairman,
Indian Oil Corporation,
Scope Complex,
Core 2, Institutional Area,
New Delhi-110003.

2. The Director (HR),
Indian Oil Corporation,
Scope Complex,
Core 2, Institutional Area,
New Delhi-110003.

3. The Director (Marketing),
Indian Oil Corporation,
Indian Oil Bhavan,
G9, Ali Yawar Jung Margh,
Bhandra East,
Mumbai 400051.

4. The Executive Director,
Southern Region,
Indian Oil Corporation,
139, Nungambakkam High Road,
Chennai-600034.

5. The Deputy General Manager (HR),
Indian Oil Corporation,
Scope Complex,
Core 2, Institutional Area,
New Delhi-110003.

6. The General Manager (TN & P),
Indian Oil Corporation,
139, Nungambakkam High Road,
Chennai-600034.

7. Olga Xavier,
W/o.Xavier,
Assistant Manager (LPG),
Indian Oil Corporation,
139, Nungambakkam High Road,
Chennai-600034.

8. T.A.Mohanraj,
Sr. P & S Mgr.,
Indian Oil Corporation,
139, Nungambakkam High Road,
Chennai-600034.

9. TVSR Mohan,
Sr. Materials Manager,
Indian Oil Corporation,
139, Nungambakkam High Road,
Chennai-600034. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.Ashok Menon

For Respondents : Mr.V.Karthick for
M/s.T.S.Gopalan & Co.-R1 to 6
R7 to 9 Not ready.

:O R D E R

By letter dated 7.5.2001, the fifth respondent Corporation refused to give the benefit of 'One Time Voluntary Separation Scheme 2000' to the petitioner and the said letter dated 7.5.2001 reads as follows:
INDIAN OIL (MD) SR CHENNAI
HR GROUP

FROM : DGM (HR):SR REF:HR/IR/1441/VRS DT.07/2001

FOR : GM, TAMIL NADU STATE OFFICE

SUB: ONE TIME VOLUNTARY SEPARATION SCHEME-2000

We have for reference the representation dated 25.04.2001 received

from Shri N.Hariharan, Manager (IS), TN STO wherein he had requested us to consider his VR application dated 12.6.2000under OVSS-2000 favourably.

In this connection, we have been informed by HO that Shri N. Hariharan's application for VR is not under consideration keeping in view the various parameters applicable for grant of VR under OVSS 2000 Scheme. (emphasis supplied)

You may therefore counsel the officer suitably.

sd/.
Dy.General Manager

2. Aggrieved by the said letter of the fifth respondent dated 7.5.20 01, the petitioner has preferred the above writ petition seeking a writ of Certiorarified Mandamus to call for the records of the respondent's communication letter dated 7.5.2001 from the fifth respondent to the sixth respondent under reference HR/IR/1441/VRS, quash the same as illegal and invalid and consequently to direct the respondents 1 to 6 to pass orders on the petitioner's application for voluntary separation under the 'One Time Voluntary Separation Scheme 2000' of the Indian Oil Corporation dated 12.6.2000 permitting the petitioner to retire under the One Time Voluntary Separation Scheme 2000 as in the case of respondents 7, 8 and 9, on the following grounds:-
(1) that the impugned order refusing to accept the voluntary retirement under 'One Time Voluntary Separation Scheme 2000' does not give any reason, except that the petitioner is not coming within the parameters for grant of voluntary retirement under 'One Time Voluntary Separation Scheme 2000', which is vague and therefore, it violates the principles of natural justice and attracts Article 14 of the Constitution of India; and
(2) that in the absence of any reason provided in the impugned letter dated 7.5.2001, the petitioner is not in a position to challenge the same, which again offends the principles of natural justice and attracts Article 14 of the Constitution of India.

3. Mr.V.Karthick, learned counsel appearing for respondents 1 to 6 Corporation, while submitting that the performance of the petitioner was excellent and therefore, the respondents corporation could not accept the voluntary retirement of the petitioner, he is not disputing the fact that the impugned letter dated 7.5.2001 does not disclose any reason except that the petitioner is not coming within the parameters applicable for grant of voluntary retirement. However, the learned counsel for respondents 1 to 6 Corporation submits that the petitioner is entitled to the voluntary retirement, which is in force.

4. I have given careful consideration to the submissions of both sides.

5. It is apparent on the face of the records that the impugned letter dated 7.5.2001 does not give any reason for refusal of the voluntary

retirement under 'One Time Voluntary Separation Scheme 2000' and therefore, the petitioner was deprived either to know the reason for refusal to accept the voluntary retirement or to challenge the same. In either case, it violates the principles of natural justice and attracts Article 14 of the Constitution of India, as rightly pointed out by the learned counsel for the petitioner.

6. Of course, while accepting the voluntary retirement no reason is required, but while rejecting the same the applicant, who seeks voluntary retirement, is entitled to know the reason, as the scheme confers certain right on the petitioner to apply for the same. Hence, finding that the impugned letter dated 7.5.2001 violates the principles of natural justice and attracts Article 14 of the Constitution of India, I am obliged to quash the impugned letter of the respondents Corporation dated 7.5.2001, remit the matter to respondents 1 to 6 as the impugned proceedings does not disclose any reason and direct respondents 1 to 6 to pass appropriate orders within thirty days from the date of receipt of a copy of this order, making it clear that the petitioner shall not have any absolute right to seek voluntary retirement and it is only for the employer either to accept or to reject the voluntary retirement for just and valid reason.

The writ petition is ordered accordingly. No costs.

Index : Yes
Internet: Yes

ATR